

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BRUNILDA LOPEZ,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting  
Commissioner of Social Security

Defendant.

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CIVIL ACTION NO. 17-4436

**ORDER**

**AND NOW**, this 24th day of June, 2019, after considering: (1) the complaint (Doc. No. 3), (2) the answer (Doc. No. 7), (3) the administrative record (Doc. No. 8), (4) the plaintiff's brief and statement of issues in support of the request for review (Doc. No. 9), (5) the defendant's response to the request for review (Doc. No. 12), (6) the plaintiff's reply in support of her request for review (Doc. No. 14), and (7) the report and recommendation filed by United States Magistrate Judge Elizabeth T. Hey (Doc. No. 15); and neither party having filed any objections to the report and recommendation; accordingly, it is hereby **ORDERED** as follows:

1. The clerk of court is **DIRECTED** to remove this matter from civil suspense and return it to the court's active docket;
2. The report and recommendation (Doc. No. 15) is **APPROVED** and **ADOPTED**;
3. The plaintiff's request for review is **GRANTED**;<sup>1</sup>

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<sup>1</sup> Since neither party filed objections to Magistrate Judge Hey's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. *See Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The court has reviewed Magistrate Judge Hey's report for plain error and has found none.

4. The final decision of the Commissioner is **REVERSED** to the extent the matter is **REMANDED** to the Commissioner pursuant to 42 U.S.C. § 405(g) for further proceedings consistent with the report and recommendation (Doc. No. 15); and

5. The clerk of court is **DIRECTED** to mark this matter as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith  
EDWARD G. SMITH, J.